

73. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Bureaus strongly encourage each potential bidder to review all underlying Commission orders, including the *USF/ICC Transformation Order*.<sup>134</sup> Each potential bidder should perform technical analyses or refresh its previous analyses to assure itself that, should it become a winning bidder for Mobility Fund Phase I support, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. The Bureaus strongly encourage each applicant to inspect any prospective transmitter sites located in, or near, the service area for which it plans to construct transmitters with Mobility Fund support, to confirm the availability of such sites, and to familiarize itself with the Commission's rules regarding environmental compliance.<sup>135</sup>

74. The Bureaus strongly encourage each applicant to conduct its own research prior to Auction 901 in order to determine the existence of pending administrative or judicial proceedings, including pending allocation rulemaking proceedings that might affect its decision to participate in the auction. The due diligence considerations mentioned in this Public Notice do not comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

75. The Bureaus also remind each applicant that pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission – including applications, applications for modification, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review – may relate to particular licensees or applicants for support in Auction 901. Each prospective applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on Mobility Fund Phase I support available through this auction.

76. **Each applicant is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect its ability to bid on or otherwise receive Mobility Fund Phase I support.** Each potential bidder is responsible for undertaking research to ensure that any support won in this auction will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

77. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into its databases.

#### 4. Use of FCC Auction System

78. Bidders will be able to participate in Auction 901 over the Internet using the FCC Auction System. The Commission makes no warranty whatsoever with respect to the FCC Auction System. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of

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<sup>134</sup> See, generally, *USF/ICC Transformation Order*.

<sup>135</sup> 47 C.F.R. Part 1, Subpart I.

business information, or any other loss) arising out of or relating to the existence, furnishing, functioning, or use of the FCC Auction System that is accessible to qualified bidders in connection with this auction. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the FCC Auction System.

## 5. Fraud Alert

79. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction 901 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service, Federal Trade Commission ("FTC"), Securities and Exchange Commission ("SEC"), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

80. Information about deceptive telemarketing investment schemes is available from the FCC as well as the FTC and SEC. Additional sources of information for potential bidders and investors may be obtained from the following sources:

- the FCC's Consumer Call Center at (888) 225-5322 or by visiting <http://wireless.fcc.gov/csinfo#fraud>
- the FTC at (877) FTC-HELP ((877) 382-4357) or by visiting <http://ftc.gov/bcp/edu/pubs/consumer/invest/inv03.shtm>
- the SEC at (202) 942-7040 or by visiting <http://sec.gov/cgi-bin/txt-srch-sec?text=fraud&section=Investor+Information&x=8&y=5>.

Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060.

## 6. Environmental Review Requirements

81. Recipients of Mobility Fund support, like all licensees, must comply with the Commission's rules regarding implementation of the National Environmental Policy Act and other federal environmental statutes.<sup>136</sup> The construction of a wireless antenna facility is a federal action, and any entity constructing a wireless antenna facility must comply with the Commission's environmental rules for each such facility.<sup>137</sup> The Commission's environmental rules require, among other things, that the

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<sup>136</sup> 47 C.F.R. Part 1, Subpart I.

<sup>137</sup> 47 C.F.R. §§ 1.1301-1.1319.

entity constructing the facility consult with expert agencies having environmental responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). In assessing the effect of facilities construction on historic properties, the entity constructing the facility must follow the provisions of the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process.<sup>138</sup> The entity must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The entity also must prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission, or that are over 450 feet in height.<sup>139</sup> Facilities that require antenna registration will also be required to complete an environmental notification process.<sup>140</sup>

## II. SHORT-FORM APPLICATION REQUIREMENTS

### A. General Information Regarding Short-Form Applications

82. An application to participate in Auction 901, referred to as a short-form application or FCC Form 180, provides information used to determine whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for universal service funding support.<sup>141</sup> The short-form application is the first part of the Commission's two-phased auction application process. In the first phase, each party desiring to participate in the auction must file a streamlined, short-form application in which it certifies under penalty of perjury as to its qualifications.<sup>142</sup> Each applicant must take seriously its duties and responsibilities and carefully determine before filing an application that it has the legal, technical and financial resources to participate in the auction and be able to meet the public interest obligations associated with Mobility Fund Phase I support. Eligibility to participate in bidding is based on the applicant's short-form application and certifications, as explained below. In the second phase of the process, each winning bidder must file a more comprehensive long-form application (FCC Form 680).

83. Every entity seeking support available in Auction 901 must file a short-form application electronically via the FCC Auction System prior to 6:00 p.m. ET on July 11, 2012. The short-form application requires each applicant to establish its eligibility for bidding for Mobility Fund Phase I support. Among other things, to establish eligibility at the short-form stage, an applicant must certify that it is a designated ETC in any geographic area for which it will seek support or that it is a Tribally-owned or controlled entity with a pending application for ETC designation, and provide the Study Area Code(s) (SAC(s)) associated with its ETC designation and/or provide the name(s) of its corresponding Tribal land(s) in lieu of a SAC. Each applicant will also be required to provide a general narrative description of its access to the spectrum it plans to use to meet Mobility Fund obligations in the particular area(s) for which it plans to bid and certify that it will retain its access to the spectrum for at least five years from the

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<sup>138</sup> 47 C.F.R. Part 1, Appendix C.

<sup>139</sup> The requirement to prepare environmental assessments for towers over 450 feet in height is pending approval by the Office of Management and Budget (OMB).

<sup>140</sup> See National Environmental Policy Act Compliance for proposed Tower Registrations, WT Docket Nos. 08-61, 03-187, *Order on Remand*, FCC 11-181, 26 FCC Rcd 16700 (2011). This requirement is also pending OMB approval.

<sup>141</sup> 47 C.F.R. § 1.21001.

<sup>142</sup> *Id.*

date of award of support. If an applicant claims eligibility for a Tribal land bidding credit as a Tribally-owned or controlled<sup>143</sup> entity, the information provided in its FCC Form 180 will be used in determining whether the applicant is eligible for the claimed bidding credit. Below we describe more fully the information disclosures and certifications required in the short-form application. Each applicant filing a short-form application is subject to the Commission's rule prohibiting certain communications beginning on the deadline for filing, as described above.<sup>144</sup>

84. Each applicant bears full responsibility for submitting an accurate, complete and timely short-form application. Each applicant must certify on its short-form application under penalty of perjury that it is legally, technically, financially and otherwise qualified to receive universal service support funding.<sup>145</sup> Each applicant should consult the Commission's rules to ensure that, in addition to the materials described below, all the information required is included in its short-form application.

85. A party may not submit more than one short-form application for Auction 901. If a party submits multiple short-form applications, only one application may be accepted for filing.

86. Each applicant also should note that submission of a short-form application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. An applicant is not permitted to make major modifications to its application; such impermissible changes include a change of the certifying official to the application.<sup>146</sup> Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, the forfeiture of universal service support, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

#### **B. SAC Identification**

87. An applicant will not be required to select the specific census blocks on which it wishes to bid when submitting its short-form application. Based on the SAC(s) or Tribal land(s) information entered by an applicant, the FCC Auction System will identify eligible tracts and blocks in the associated state(s) or Tribal land(s) for each applicant during the application process.

#### **C. Disclosure of Bidding Arrangements**

88. An applicant will be required to identify in its short-form application all real parties in interest to any agreements relating to the participation of the applicant in the competitive bidding for Mobility Fund support.<sup>147</sup>

89. Each applicant will also be required to certify under penalty of perjury in its short-form application that it has disclosed all real parties in interest to any agreements involving the applicant's participation in the competitive bidding for Mobility Fund support.<sup>148</sup> If an applicant has had discussions, but has not reached an agreement by the short-form application filing deadline, it should not include the

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<sup>143</sup> See Section II.F. "Tribally-Owned or Controlled Providers – 25% Bidding Credit," below.

<sup>144</sup> Section I.D.2. "Prohibited Communications and Compliance with Antitrust Laws."

<sup>145</sup> 47 C.F.R. § 1.21001(b)(6).

<sup>146</sup> 47 C.F.R. § 1.21001.

<sup>147</sup> 47 C.F.R. § 1.21001(b)(3).

<sup>148</sup> 47 C.F.R. § 1.21001(b)(4).

names of parties to the discussions on its application and may not continue such discussions with any applicants after the deadline.<sup>149</sup>

90. Moreover, each applicant will also be required to certify under penalty of perjury in its short-form application that it and all applicable parties have complied with and will continue to comply with section 1.21002 of the Commission's rules.<sup>150</sup> While section 1.21002 does not prohibit non-auction-related business negotiations among auction applicants, we remind applicants that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.<sup>151</sup> Further, as discussed above, compliance with the disclosure requirements of section 1.21002 of the Commission's rules will not insulate a party from enforcement of the antitrust laws.<sup>152</sup>

#### **D. Ownership Disclosure Requirements**

91. Each applicant must comply with the uniform Part 1 ownership disclosure standards and provide information required by sections 54.1005(a)(1) and 1.2112(a) of the Commission's rules.<sup>153</sup> Specifically, in completing the short-form application, an applicant will be required to fully disclose information on the real party- or parties-in-interest and the ownership structure of the applicant, including both direct and indirect ownership interests of 10 percent or more, as prescribed in section 1.2112(a) of the Commission's rules.<sup>154</sup> Each applicant is responsible for ensuring that information submitted in its short-form application is complete and accurate.

92. In certain circumstances, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with the short-form application (FCC Form 180) (such as information submitted in an FCC Form 602 or in an FCC Form 175 filed for a previous Commission spectrum license auction using the FCC Auction System), will automatically be entered into the applicant's short-form application. Each applicant must carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing the short-form application. Any information that needs to be corrected or updated must be changed directly in the short-form application.

#### **E. Specific Mobility Fund Phase I Eligibility Requirements and Certifications**

##### **1. ETC Designation Certification**

93. In the *USF/ICC Transformation Order*, the Commission concluded that, in order to apply to participate in an auction offering Mobility Fund support, any entity first had to be designated as an ETC pursuant to Section 214 of the Communications Act in any geographic area for which it seeks support, with one narrow exception for Tribally-owned or controlled entities.<sup>155</sup> An applicant must be the

<sup>149</sup> Section I.D.2. "Prohibited Communications and Compliance with Antitrust Laws," above.

<sup>150</sup> 47 C.F.R. §§ 1.21001(b)(5), 1.21002.

<sup>151</sup> Section I.D.2. "Prohibited Communications and Compliance with Antitrust Laws," above.

<sup>152</sup> *Id.*

<sup>153</sup> See 47 C.F.R. §§ 1.2112(a), 1.21001(b)(1), 54.1005(a)(1). See also *USF/ICC Transformation Order*, 26 FCC Rcd at 17804 para. 418. 47 C.F.R. § 54.1005(a)(1) requires the disclosure on the short-form application of the applicant's ownership information as set forth in 47 C.F.R. § 1.2112(a).

<sup>154</sup> 47 C.F.R. §§ 1.2112(a), 54.1005(a)(1).

<sup>155</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17769 para. 289; see also 47 U.S.C. § 214.

entity designated by a State or the Commission as an ETC in that geographic area. For example, if a designated ETC is a subsidiary of a parent holding company, only the subsidiary that is designated an ETC, and not the holding company, would be eligible to participate in the auction. For purposes of participation in the Mobility Fund, a party's ETC designation may not be limited in any way. Accordingly, a party designated as an ETC solely for purposes of the Low Income Program cannot satisfy the ETC eligibility requirement for the Mobility Fund on that basis.<sup>156</sup> Of course, nothing prohibits such a party from seeking a general designation as an ETC and then, if it receives such a designation, participating in the Mobility Fund.

94. ETC status carries with it certain obligations. So that a party might obtain the required ETC designation but not be subject to those obligations unless and until it wins any Mobility Fund support, the Commission further determined that a party might participate with an ETC designation conditioned upon the party winning support in the auction.<sup>157</sup> At the short-form application stage, an applicant will be required to state that it is designated as an ETC in any area for which it will seek support or is a Tribal entity with a pending application to become an ETC in any such area, and certify that the disclosure is accurate. A winning bidder will be required to provide proof of its ETC designation in all of the areas in which it will receive support before it may receive support.

95. *Pending ETC Designations.* The Commission further decided to permit participation by a Tribally-owned or controlled entity<sup>158</sup> that at the short-form application deadline has an application for ETC designation pending for the provision of service within the boundaries of the associated Tribal land.<sup>159</sup> The Commission did so to afford Tribes an increased opportunity to participate at auction, in recognition of their interest in self-government and self-provisioning on their own lands.<sup>160</sup> A Tribally-owned or controlled entity whose application for ETC designation remains pending at the short-form application deadline is requested to provide the date the application was filed, with whom (*i.e.* the Commission or relevant state regulatory agency), any file or case number associated with the application, and its current status.

## 2. Access to Spectrum Description and Certification

96. Pursuant to the *USF/ICC Transformation Order*, any applicant for Auction 901 must have access to the necessary spectrum to fulfill any obligations related to support.<sup>161</sup> In an application to

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<sup>156</sup> NTCH has filed a petition for reconsideration of the *USF/ICC Transformation Order*, in which it seeks in part clarification or reconsideration regarding whether Lifeline-only ETCs may participate in the Mobility Fund. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Petition for Reconsideration of NTCH, Inc. (filed Dec. 29, 2011) ("*NTCH Petition*"). The Bureaus' discussion of the current rule in no way prejudices the Commission's review and action on the pending petition.

<sup>157</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17809 para. 439; see 47 C.F.R. § 54.1003(a).

<sup>158</sup> Only the following entities may be designated as qualifying Tribal entities: (1) Tribes, which, as previously defined, are federally-recognized American Indian Tribes and Alaska Native Villages; (2) Tribal consortia; and (3) entities that are more than 50 percent owned and controlled by a Tribe or Tribes.

<sup>159</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17823 para. 491; 47 C.F.R. § 54.1004(a).

<sup>160</sup> However, allowing such participation at auction in no way prejudices the ultimate decision on a Tribally-owned or controlled entity's petition for ETC designation. Moreover, support will be disbursed only after an applicant receives such designation. A Tribally-owned or controlled entity that does not obtain and provide the required ETC designation will not be entitled to any support payments and may ultimately be in default in accordance with the rules. See 47 C.F.R. § 54.1005(b)(3)(v); 47 C.F.R. § 1.21004.

<sup>161</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17799 para. 394.

participate in Auction 901, each applicant must describe its required spectrum access and certify that the description is accurate and the applicant will retain such access for at least five (5) years from the date on which it is authorized to receive support.<sup>162</sup> Specifically, an applicant will be required to disclose whether it currently holds or leases the spectrum and whether such spectrum access is contingent on obtaining support in Auction 901. For the described spectrum access to be sufficient as of the date of the short-form application, the applicant must obtain any necessary approvals from the Commission for the spectrum access prior to filing the application.<sup>163</sup> A pending request for such an approval is not sufficient to satisfy this requirement. Furthermore, only assured access is sufficient, which means that the access must be to licensed spectrum subject to limited access.<sup>164</sup> Accordingly, the applicant should identify the license applicable to the spectrum to be accessed, the licensee, and, if the licensee is a different party than the applicant, the relationship between the applicant and the licensee that provides the applicant with the required access. With the exception of the certification, the terms of which are set forth in FCC Form 180, an applicant must provide all required information relating to spectrum access in an attachment to FCC Form 180, designated as a “Spectrum Access” attachment.

### **3. Financial and Technical Capability Certification**

97. The Commission requires that an applicant certify in the pre-auction short-form application that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas for which it seeks support.<sup>165</sup> This certification indicates that an applicant for Mobility Fund Phase I funds can provide the requisite service without any assurance of ongoing support for the areas in question after Mobility Fund Phase I support has been exhausted. An applicant should be aware that in making a certification to the Commission it exposes itself to liability for a false certification. An applicant should take care to review its resources and its plans before making the required certification and be prepared to document its review, if necessary.

### **4. Certification that Applicant Will Not Seek Support for Areas in Which It Has Made a Public Commitment to Deploy 3G or Better Service by December 31, 2012**

98. The Commission requires each applicant for Mobility Fund Phase I support to certify that the applicant will not seek support for any areas in which it has made a public commitment to deploy 3G or better wireless service by December 31, 2012.<sup>166</sup> In determining whether an applicant has made such a public commitment we would consider any public statement made with some specificity as to both geographic area and time period as well as level of service. For example, in the public record generated in response to the *Auction 901 Comment Public Notice*, which sought comment on a list of census blocks potentially eligible for Mobility Fund Phase I support, more than one party publicly identified areas that

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<sup>162</sup> 47 C.F.R. § 54.1005(a)(4).

<sup>163</sup> 47 C.F.R. § 54.1005(a)(4) (as amended by *Connect America Fund et al.*, WC Docket No. 10-90 et al., *Order*, DA 12-147, 27 FCC Rcd 605 (WCB/WTB 2012) (“*USF/ICC Clarification Order*”).

<sup>164</sup> Townes Telecommunications, Inc. has filed a petition for reconsideration of the *USF/ICC Transformation Order*, in which it seeks clarification or reconsideration determining that access to unlicensed spectrum is sufficient to meet the spectrum access requirement. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Petition for Reconsideration of Townes Telecommunications, Inc. (filed Dec. 29, 2011). The Bureaus’ discussion of the current rule in no way prejudices the Commission’s review and action on the pending petition.

<sup>165</sup> *USF/ICC Transformation Order*, 26 FCC Rcd 17801 at para. 401.

<sup>166</sup> *Id.* at 17802-03 para. 410; 47 C.F.R. § 54.1005(a)(5).

they intend to cover with 3G or better service no later than December 31, 2012.<sup>167</sup> This requirement helps to assure that Mobility Fund Phase I support will not go to finance coverage that carriers would have provided in the near term without any subsidy. Furthermore, the requirement may conserve funds and avoid displacing private investment by making a carrier that made such a commitment ineligible for Mobility Fund Phase I support with respect to the identified geographic area(s). Because circumstances are more likely to change over a longer term, we do not hold providers to any statements for any time period beyond December 31, 2012. Applicants should note that this restriction does not prevent a party from seeking and receiving support for an eligible geographic area where another provider has announced such a commitment to deploy 3G or better.<sup>168</sup>

#### **F. Tribally-Owned or Controlled Providers – 25% Reverse Bidding Credit**

99. The Commission adopted a 25 percent “reverse” bidding credit for Tribally-owned or controlled providers seeking either general or Tribal Mobility Fund Phase I support.<sup>169</sup> In order to be eligible for the bidding credit, a qualifying Tribally-owned or controlled provider must certify in its short-form application that it is qualified and identify the applicable Tribe and Tribal lands.<sup>170</sup>

100. The bidding credit will effectively reduce the Tribal entity’s bid amount by 25 percent for the purpose of comparing it to other bids, thus increasing the likelihood that Tribally-owned and controlled entities will receive funding. If the Tribally-owned or controlled entity were to win, support would be calculated at the full, undiscounted bid amount. The preference is available with respect to the eligible census blocks located within the geographic area defined by the boundaries of the Tribal land associated with the Tribally-owned or controlled provider seeking support.

#### **G. Commission Red Light Rules**

101. Applications to participate in Auction 901 are subject to the Commission’s rules regarding an applicant with delinquent debts, often referred to as the Commission Red Light Rules.<sup>171</sup> Pursuant to the Red Light Rules, unless otherwise expressly provided for, the Commission will withhold action on an application by any entity found to be delinquent in its debt to the Commission for purposes of the Red Light Rule.<sup>172</sup> Accordingly, parties interested in filing applications to participate in Auction 901 should review the status of any debts that they owe the Commission before submitting their application and resolve any delinquent debts. The Commission maintains a Red Light Display System (RLD) to enable entities doing business with the FCC to determine if they have any outstanding delinquent debt. The RLD enables a party to check the status of its account by individual FCC

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<sup>167</sup> See, e.g., Mid-Rivers ECB Comments at 4, stating “Mid-Rivers Wireless is in the midst of a 3G network upgrade that will be completed well in advance of the September 27, 2012, Auction[.]” See also WUE ECB Comments at 2 (“Based on the attached showings, WUE is providing (or will by the close of the comment period provide) 3G service to the census blocks identified in Attachment A.”).

<sup>168</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17802-3 para. 410.

<sup>169</sup> See *id.* at 17823 para. 490; 47 C.F.R. § 54.1004(c); see also “Further Inquiry into Tribal Issues Relating to Establishment of a Mobility Fund, WT Docket No. 10-208,” *Public Notice*, DA 11-702, 26 FCC Rcd 5997 (2011).

<sup>170</sup> 47 C.F.R. § 54.1004(c).

<sup>171</sup> Parties familiar with spectrum license auctions should note that the stricter spectrum license application rules supersede the Commission’s Red Light Rules in the context of a spectrum license auction. See 47 C.F.R. § 1.1902(f). No corresponding provision applies with respect to Auction 901, however. Accordingly, the Commission’s standard Red Light Rules will apply.

<sup>172</sup> 47 C.F.R. § 1.1910(b)(2).



Registration Numbers (FRNs), and links other FRNs sharing the same Tax Identification Number (TIN) when determining whether there are outstanding delinquent debts. The RLD is available at <http://www.fcc.gov/redlight/>. Additional information is available at [http://transition.fcc.gov/debt\\_collection/](http://transition.fcc.gov/debt_collection/).

#### **H. USF Debarment**

102. The Commission's rules provide for the debarment of those convicted of or found civilly liable for defrauding the high-cost support program.<sup>173</sup> Applicants are reminded that those rules apply with equal force to the Mobility Fund Phase I.

#### **I. Minor Modifications to Short-Form Applications**

103. After the deadline for filing initial applications, an Auction 901 applicant is permitted to make only minor changes to its application. Permissible minor changes include, among other things, deletion and addition of authorized bidders (to a maximum of three) and revision of the addresses and telephone numbers of the applicant and its contact person. An applicant is not permitted to make a major modification to its application (e.g., change in control of the applicant or change of the certifying official) after the initial application filing deadline.<sup>174</sup> Thus, any change in control of an applicant, resulting from a merger, for example, will be considered a major modification, and the application will consequently be dismissed.<sup>175</sup>

104. If an applicant wishes to make permissible minor changes to its short-form application, such changes should be made electronically to its short-form application using the FCC Auction System whenever possible. For the change to be submitted and considered by the Commission, be sure to click on the SUBMIT button. After the revised application has been submitted, a confirmation page will be displayed that states the submission time, submission date and a unique file number.<sup>176</sup>

105. An applicant cannot use the FCC Auction System outside of the initial and resubmission filing windows to make changes to its short-form application other than administrative changes (e.g., changing certain contact information or the name of an authorized bidder). If these or other permissible minor changes need to be made outside of these windows, the applicant must submit a letter briefly summarizing the changes and subsequently update its short-form application in the FCC Auction System once it is available. Moreover, after the filing window has closed, the system will not permit applicants to make certain changes, such as the applicant's legal classification.

106. Any letter describing changes to an applicant's short-form application must be submitted by e-mail to [auction901@fcc.gov](mailto:auction901@fcc.gov). The e-mail summarizing the changes must include a subject or caption referring to Auction 901 and the name of the applicant, for example, "RE: Changes to Auction 901 Short-Form Application of ABC Corp." The Bureaus request that parties format any attachments to e-mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Questions about short-form application amendments should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

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<sup>173</sup> 47 C.F.R. § 54.8.

<sup>174</sup> 47 C.F.R. § 1.21001(d).

<sup>175</sup> We reiterate that, even if an applicant's short-form application is dismissed, the applicant would remain subject to the communication prohibitions of 47 C.F.R. § 1.2105(c) until the long form application deadline after the auction closes.

<sup>176</sup> The Bureaus advise applicants to print and retain a copy of this confirmation page.

107. Any application amendment and related statements of fact must be certified by an appropriate party. For example, one of the partners if the applicant is a partnership; or an officer, director, or duly authorized employee, if the applicant is a corporation; or a member who is an officer, if the applicant is an unincorporated association.<sup>177</sup>

108. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System ("ECFS"), which was used for submitting comments regarding Auction 901. Further, as discussed above, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate section 1.21002 or the limited information procedures adopted for Auction 901.<sup>178</sup> A party seeking to submit information that might reflect non-public information should consider submitting any such information along with a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications pursuant to section 1.21002.

#### **J. Maintaining Current Information in Short-Form Applications**

109. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application.<sup>179</sup> If an amendment reporting changes is a "major amendment," as defined by section 1.21001(d)(4), the major amendment will not be accepted and may result in the dismissal of the application.<sup>180</sup> As noted above, after the application filing deadline, applicants may make only minor changes to their applications. For changes to be submitted and considered by the Commission, be sure to click on the SUBMIT button in the FCC Auction System. In addition, an applicant cannot update its short-form application using the FCC Auction System after the initial and resubmission filing windows close. If information needs to be submitted pursuant to section 1.65 after these windows close, a letter briefly summarizing the changes must be submitted by e-mail to [auction901@fcc.gov](mailto:auction901@fcc.gov). This e-mail must include a subject or caption referring to Auction 901 and the name of the applicant. The Bureaus request that parties format any attachments to e-mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Applicants must not submit application-specific material through ECFS. A party seeking to submit information that might reflect non-public information should consider submitting any such information along with a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications pursuant to section 1.21002.

### **III. PRE-AUCTION PROCEDURES**

#### **A. Online Auction Tutorial – Available June 27, 2012**

110. No later than Wednesday, June 27, 2012, the Commission will post an educational auction tutorial on the Auction 901 web page for prospective bidders to familiarize themselves with the auction process. This online tutorial will provide information about pre-auction procedures, completing short-form applications, auction conduct, the FCC Auction System, auction rules, and Mobility Fund rules. The tutorial will also provide an avenue to ask FCC staff questions about the auction, auction procedures, filing requirements, and other matters related to this auction.

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<sup>177</sup> See 47 C.F.R. § 1.917.

<sup>178</sup> See Section I.D.2.f. "Duty to Report Prohibited Communications," above.

<sup>179</sup> 47 C.F.R. § 1.65.

<sup>180</sup> 47 C.F.R. § 1.21001(d)(4).

111. This interactive, online tutorial should provide an efficient and effective way for interested parties to further their understanding of the auction process. The Auction 901 online tutorial will allow viewers to navigate the presentation outline, review written notes, listen to audio of the notes, and search for topics using a text search function. Additional features of this web-based tool include links to auction-specific Commission releases, e-mail links for contacting Commission licensing and auction staff, and a timeline with deadlines for auction preparation. The online tutorial will be accessible through a web browser with Adobe Flash Player.<sup>181</sup> As always, Commission staff will be available to promptly answer questions posed by telephone and e-mail throughout the auction process.<sup>182</sup>

112. The auction tutorial will be accessible from the FCC's Auction 901 web page at <http://wireless.fcc.gov/auctions/901/> through an "Auction Tutorial" link. Once posted, this tutorial will remain available for reference in connection with the procedures outlined in this Public Notice and accessible anytime.

#### **B. Short-Form Applications – Due Prior to 6:00 p.m. ET on July 11, 2012**

113. In order to be eligible to bid in this auction, applicants must first follow the procedures to submit a short-form application (FCC Form 180) electronically via the FCC Auction System. This short-form application must be submitted prior to 6:00 p.m. ET on July 11, 2012. **Late applications will not be accepted.** No application fee is required.

114. Applications may generally be filed at any time beginning at noon ET on June 27, 2012, until the filing window closes at 6:00 p.m. ET on July 11, 2012. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applications can be updated or amended multiple times until the filing deadline on July 11, 2012.

115. An applicant must always click on the SUBMIT button on the "Certify & Submit" screen to successfully submit its FCC Form 180 and any modifications; otherwise the application or changes to the application will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 180 will be provided in a separate public notice. FCC Auctions Technical Support is available at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to Technical Support are recorded.

#### **C. Application Processing and Minor Corrections**

116. After the deadline for filing FCC Form 180 applications, Commission staff will process all timely submitted applications to determine which are complete, and subsequently will issue a public notice identifying (1) those that are complete; (2) those that are rejected; and (3) those that are incomplete or deficient because of minor defects that may be corrected. The public notice will include the deadline for resubmitting corrected applications.

117. As described above, after the application filing deadline on July 11, 2012, applicants can make only minor corrections to their applications.<sup>183</sup> They will not be permitted to make major modifications (*e.g.*, change control of the applicant or change of the certifying official).<sup>184</sup>

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<sup>181</sup> Most users will already have the Flash Player browser plug-in, which can be downloaded from <http://get.adobe.com/flashplayer/>.

<sup>182</sup> Contact information for subject matter experts may be found in Section VI. of this Public Notice, below.

<sup>183</sup> See Section II.J. "Minor Modifications to Short-Form Applications," above.

118. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the short-form application, unless the applicant's certifying official or contact person notifies the Commission in writing that applicant's counsel or other representative is authorized to speak on its behalf.<sup>185</sup> Authorizations may be sent by e-mail to [auction901@fcc.gov](mailto:auction901@fcc.gov).

#### D. Auction Registration

119. Approximately ten days before the auction, the Bureaus will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants with submitted FCC Form 180 applications that are deemed timely-filed, accurate, and complete.

120. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 180 and will include the SecurID® tokens that will be required to place bids, the "FCC Auction System Bidder's Guide," and the Auction Bidder Line phone number.

121. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, September 20, 2012, should call the Auctions Hotline at (717) 338-2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

122. In the event that SecurID® tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacements. To request replacement of these items, call Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY).

#### E. Remote Electronic Bidding

123. The Commission will conduct this auction over the Internet. Only qualified bidders are permitted to bid. Each authorized bidder must have its own SecurID® token, which the Commission will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID® tokens, while applicants with two or three authorized bidders will be issued three tokens. A bidder cannot bid without their SecurID tokens. **For security purposes, the SecurID® tokens, a telephone number for bidding questions, and the "FCC Auction System Bidder's Guide" are only mailed to the contact person at the contact address listed on the FCC Form 180.** Each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 901.

124. Please note that the SecurID® tokens can be recycled and the Bureaus encourage bidders to return the tokens to the FCC. Pre-addressed envelopes will be provided to return the tokens once the auction has ended.

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<sup>184</sup> 47 C.F.R. § 1.21001(d)(4); *see also* Two Way Radio of North Carolina, Inc., *Memorandum Opinion and Order*, FCC 99-189, 14 FCC Rcd 12035 (1999).

<sup>185</sup> In no event, however, will the Commission send auction registration materials to anyone other than the contact person listed on the applicant's FCC Form 180 or respond to a request for replacement registration materials from anyone other than the authorized bidder, contact person, or certifying official listed on the applicant's FCC Form 180. *See* Section III.D. "Auction Registration," below.

**F. Mock Auction – September 25, 2012**

125. All qualified bidders will be eligible to participate in a mock auction on Tuesday, September 25, 2012. The mock auction will enable qualified bidders to become familiar with the FCC Auction System and to practice submitting bids prior to the auction. We strongly recommend that all qualified bidders participate to gain experience with the bidding procedures. Details will be announced by public notice.

**IV. AUCTION EVENT****A. Auction Structure – Reverse Auction Mechanism**

126. Auction 901 will be held on Thursday, September 27, 2012. The start and finish time of the bidding round will be announced in a public notice listing the qualified bidders, which will be released approximately 10 days before the start of the auction. Our choice of auction design for Auction 901 – a single round format with other design characteristics described below – is specific to the particular context of the Mobility Fund Phase I auction.<sup>186</sup> The choices we make here do not prejudice our future auction design choices for other phases of the Mobility Fund or other competitive bidding mechanisms related to the USF.

**1. Single Round Sealed Bid Reverse Auction Format**

127. As proposed in the *Auction 901 Comment Public Notice*, we will conduct Auction 901 using a single round of bidding. Several commenters address our proposal to use a single round auction. AT&T, Blooston, and NASUCA support the proposal, with Blooston noting that it believes a multiple round auction may favor large carriers over small and rural carriers.<sup>187</sup> Verizon recommends a maximum of three rounds, so that bidders can adjust their bids based on auction conditions.<sup>188</sup>

128. Two other commenters indicate a preference for a multiple round auction format. Belloni et al. assert that a single round format would not give bidders adequate opportunity to express their bid strategies, which could involve complex interactions under the bidder-defined combinatorial design that was proposed.<sup>189</sup> Power Auctions also favors a multiple round approach, claiming that it would be strategically simpler for bidders, would enable bidders to adjust the geography of their bids based on other bidders' interests, would economize on bid evaluation costs, and would enable a higher number of road miles to be covered within the budget.<sup>190</sup>

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<sup>186</sup> A few commenters oppose the use of competitive bidding to disburse universal service funds. NTCA Reply at 1, *see also* Blooston Comments at 2 (noting opposition to use of auctions in pending petition for reconsideration). The Commission decided to use a reverse auction for Mobility Fund Phase I in the *USF/ICC Transformation Order* and that decision is not subject to review here by the Bureaus. *USF/ICC Transformation Order*, 26 FCC Rcd at 17781 para. 322. We note that pending Petitions for Reconsideration of the *USF/ICC Transformation Order* present the same issue. *See, e.g., Connect America Fund et al.*, WC Docket No. 10-90 et al., Petition for Reconsideration of Blooston Rural Carriers (filed Dec. 29, 2011). The Bureaus' action here in no way prejudices the Commission's review and action on the pending petitions.

<sup>187</sup> AT&T Comments at 4; NASUCA et al. Comments at 9; Blooston Comments at 6.

<sup>188</sup> Verizon Comments at 4.

<sup>189</sup> Belloni et al. Comments at 3-7. They further argue that the cost of obtaining relevant information about the costs facing other bidders would be lower under a multiple round format. Belloni et al. Reply at 1-2.

<sup>190</sup> Power Auctions Reply at 2.

129. We conclude that a multiple round auction would not be appropriate in the context of the Mobility Fund Phase I, especially in light of the complications involved in conducting multiple rounds with many thousands of items.<sup>191</sup> We recognize that multiple round auctions can have important advantages, and in fact, the Commission generally uses a multiple round format for its spectrum license auctions. However, we do not believe that the circumstances favoring a multiple round auction – i.e., when there are strong interactions among items and when bidders are unsure as to the market value of the item – are significant enough here to outweigh our concerns about the complexity it would add to the auction. As a result, we will conduct Auction 901 using a single round of bidding.

130. We received several comments addressing the alternative single round, Milgrom/Eilat-type auction format that we mentioned briefly in the *Auction 901 Comment Public Notice*.<sup>192</sup> We do not adopt the particular other features of that auction design here, but we note that our choices here do not preclude consideration of other auction designs for future auctions.

## **2. Aggregation Method – Predefined Aggregations**

### **a. Census Blocks Aggregated to Census Tracts**

131. Consistent with the framework laid out by the Commission in the *USF/ICC Transformation Order*, in the *Auction 901 Comment Public Notice* the Bureaus discussed several approaches to aggregating census blocks for bidding, noting that some aggregation of census blocks will be necessary because census blocks are on average far smaller than the average area covered by a single cell tower, which is likely to be the minimum incremental geographic area of expanded coverage.<sup>193</sup> The *Auction 901 Comment Public Notice* proposed an approach that would give bidders the ability to create a limited number of package bids of blocks within a CMA – the bidder-defined option – and also described a predefined aggregation option whereby bidders would bid to cover the eligible blocks within census tracts.<sup>194</sup> The record we received in response to our *Auction 901 Comment Public Notice* was mixed. As we discuss in more detail below, based largely on considerations of speed and simplicity of implementation, we conclude that we will use predefined aggregations of eligible census blocks – i.e., census tracts – for bidding in Auction 901.

132. We received comments on our auction design aggregation options from a number of parties – small and rural carriers, large carriers, and academic auction experts. Generally, the carriers are split on which of the aggregation approaches we should adopt. The small and rural carriers that prefer the bidder-defined approach generally do so based on an interest in tailoring their bids to those areas where they hold spectrum and ETC status.<sup>195</sup> Small and rural carriers that prefer the predefined option cite the greater simplicity and transparency of the auction process made possible by that approach.<sup>196</sup> In supporting the predefined option, Blooston additionally indicates a preference for bidding on packages no larger than a census tract.<sup>197</sup>

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<sup>191</sup> AT&T Reply at 8 (noting the additional complications for bidders).

<sup>192</sup> See, e.g., AT&T Comments at 17-18; McAdams Reply at 18-19; Power Auctions Reply at 3.

<sup>193</sup> *Auction 901 Comment Public Notice*, 27 FCC Rcd at 538 para 28.

<sup>194</sup> *Id.* at 538-43 paras. 28-50.

<sup>195</sup> RTG Comments at 5; RTG Reply at 4-5; US Cellular Comments at 8-9; Mid-Rivers Reply at 6-7.

<sup>196</sup> Blooston Comments at ii-iii, 7-8; NTCH Comments at 2-3.

<sup>197</sup> Blooston Comments at 7.

133. The larger carriers that favor the bidder-defined approach also indicate a general interest in tailoring their bids more specifically to targeted areas, and suggest that the bidder-defined option will encourage participation.<sup>198</sup> US Cellular, while supporting the bidder-defined option, requests that bidders be able to upload bids on a tract basis to help avoid errors, and notes a general interest in simplicity.<sup>199</sup> AT&T, on the other hand, supports the predefined tract option, basing its preference on an interest in transparency, manageability, and strategic and computational simplicity.<sup>200</sup>

134. Several academic auction experts – in Economics, Decision Sciences, and Operations Research – weighed in on the auction design issues discussed in the *Auction 901 Comment Public Notice* and propose alternatives to the options we suggested.<sup>201</sup> Some of the experts additionally discuss the strategic and computational complexity associated with the combinatorial optimization required for the bidder-defined option.<sup>202</sup> Others note more generally the importance of a strategically simple auction format.<sup>203</sup>

135. Given the schedule for the Mobility Fund Phase I auction, the record received, and the amount of support being provided here, we adopt a predefined aggregation approach, largely on considerations of speed and simplicity of implementation. Under that approach, all eligible census blocks will be grouped by the census tract in which they are located, and bidders will be able to bid for support for the eligible census blocks in a census tract, not on individual blocks. For each tract a bidder bids on, the bidder will indicate a per-unit price to cover the road miles in the eligible census blocks within that tract. The auction will assign support to awardees equal to the per-road mile rate of their bid multiplied by the number of road miles associated with the eligible census blocks within the tract as shown in the files provided by the Bureaus. Bidders may bid on multiple tracts and win support for any or all of them.<sup>204</sup> Awardees will be required to cover a given percentage of the total eligible units in the tract – that is, a percentage of the total road miles that are in the eligible census blocks in the tract. Blocks in Alaska will not be aggregated for bidding, however, and bidders can place bids for support on individual census blocks in Alaska.<sup>205</sup> We also modify our tract aggregation approach for some tracts that include census blocks covering Tribal lands.

136. The Bureaus conclude that aggregating census blocks into tracts for bidding, except in Alaska, will provide a manageable bidding process, both for participants and the Commission, particularly in light of the speed with which we want to proceed in distributing this one-time support. As noted in the *Auction 901 Updated Blocks Public Notice*, our list of potentially eligible census blocks includes over 460,000 blocks; bundled into tracts for bidding, there are approximately 6,100 tracts.

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<sup>198</sup> US Cellular Reply at 7-10; Verizon Comments at 2. Verizon supported this approach so that bidders could have “input into what they can do, where they can deploy, and how much subsidy is required.” *Id.*

<sup>199</sup> US Cellular Comments at 8.

<sup>200</sup> AT&T Comments at 3-17; AT&T Reply at 1-10.

<sup>201</sup> Belloni et al. Comments and Belloni et al Reply; Pekeč Comments and Pekeč Reply; Power Auctions Reply; McAdams Reply.

<sup>202</sup> Pekeč Comments at 2-3; Pekeč Reply at 2; Belloni et al. Comments at 2; Belloni et al. Reply at 2.

<sup>203</sup> McAdams Reply at 5-6; Power Auctions at 2.

<sup>204</sup> As discussed below in para. 137, this approach requires separate bids on individual census tracts.

<sup>205</sup> This exception for Alaska is discussed further below, in Section IV.A.2.b.

137. The predefined aggregation option that we adopt does not permit package bidding – that is, it does not permit bidders to create their own groupings of census tracts on which to submit all-or-nothing bids. It does allow bidders to bid on as many individual tracts as they wish, and to win support for any or all of those tracts. The absence of explicit package bidding simplifies the process of determining which bids will be awarded support, relative to the proposed bidder-defined option (that allows bidders to create packages of census blocks), and consequently, may simplify the bidding process.<sup>206</sup>

**b. Exception, for Alaska, to Aggregation by Census Tract**

138. As mentioned above, we will not aggregate eligible census blocks in Alaska into tracts for bidding, but will permit bidders to bid for support for individual census blocks. Bidders seeking support for eligible blocks in Alaska will indicate a per-unit price to cover the road miles in the eligible census block. The auction will assign support to awardees equal to the per-road mile rate of their bid multiplied by the number of road miles associated with the eligible census block, as shown in the files provided by the Bureaus. Bidders may bid on multiple blocks – including, if they wish, all the eligible census blocks in a tract, but they will have to bid on the blocks individually – and may win support for any or all of them.

139. In the *Auction 901 Comment Public Notice*, we sought comment on this alternative approach for areas in Alaska under the suggested predefined aggregation option, which we adopt here.<sup>207</sup> In the *USF/ICC Transformation Order*, the Commission noted the large size of census blocks in Alaska, and in the *Auction 901 Comment Public Notice*, we further pointed out that the average area of the Alaska census blocks on the preliminary list of eligible areas is approximately 40 square miles compared to an average area of approximately 1.1 square miles for blocks in the rest of the country.<sup>208</sup> Commenters do not address this particular question specifically, but given the extreme difference in average size of census areas in Alaska relative to those in the rest of the country, and because census blocks in Alaska may be closer in size to a minimum scale of buildout than are most blocks elsewhere, we believe it will be helpful to give bidders the flexibility to bid on individual census blocks in Alaska.

140. We do not, however, make a more general size-based exception to our decision to conduct bidding on a census tract basis. In the *Auction 901 Comment Public Notice*, we also asked whether outside of Alaska, in areas where tracts exceed a certain size, we should use a geographic area other than tracts, but we received only limited response. Mid-Rivers notes the Commission's recognition that the large size of census blocks in Alaska may require bidding on individual census blocks, and argues that large census blocks are "also a concern in very rural areas of the Continental U.S. including Montana."<sup>209</sup> Mid-Rivers states that census tracts in its service areas are often very large but they do not specifically advocate bidding by blocks in those areas; in a related context, they support allowing bidders to bid on areas corresponding to their licensed areas, which in Mid-Rivers' case include fill-in spectrum

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<sup>206</sup> Because of the simple auction design we are adopting, we will not need to use a combinatorial optimization algorithm to determine winning bids. This obviates the need to publish such an algorithm prior to the auction, as several commenters request. See, e.g., AT&T Comments at 6; USA Coalition Reply at 3; Verizon Comments at 4; US Cellular Reply at 10.

<sup>207</sup> *Auction 901 Comment Public Notice*, 27 FCC Rcd at 541 para. 41.

<sup>208</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17788 para. 347. See also *Auction 901 Comment Public Notice*, 27 FCC Rcd at 541 para. 41.

<sup>209</sup> Mid-Rivers Reply at 5-7



areas.<sup>210</sup> An analysis of the census blocks in the list from the *Auction 901 Updated Blocks Public Notice* demonstrates that the average size of the blocks in Alaska are much larger than the average size of the blocks in other states, including Montana. The average size of the Montana areas are much closer to the average size of the areas in the other 48 states than they are to the average size of the areas in Alaska.<sup>211</sup> We also note that other states have larger average block and tract sizes than Montana. Thus, based on this record (including the absence of any input on an appropriate size cutoff point at which we would switch from bidding on a tract basis to bidding on a block basis), we decline to extend our provisions for block-by-block bidding beyond Alaska.

**c. Census Block Aggregation for Tracts with Tribal Lands**

141. Another exception to aggregation by census tract will exist for some tracts that include census blocks covering Tribal lands. For tracts that contain some eligible blocks that are in a Tribal land and other eligible blocks that are not in a Tribal land, there will be separate aggregations of the Tribal blocks and the non-Tribal blocks. If the Tribal blocks in a tract are located in more than one Tribal area, there will be separate aggregations for each Tribal area.

**d. Coverage Requirement**

142. A winning bidder will be required to provide coverage to a minimum of 75% of the road miles associated with the eligible blocks in each tract for which it is awarded support within two years after its award of support is authorized for 3G deployments or three years for 4G deployments.<sup>212</sup> If a winning bidder covers more than the minimum 75% of qualifying road miles within the required timeframe, it may collect support for up to 100% of the qualifying road miles in each tract.<sup>213</sup> This requirement is consistent with the coverage requirement associated with the predefined approach described in the *Auction 901 Comment Public Notice*.<sup>214</sup> In contrast, in the *Auction 901 Comment Public Notice* we proposed that a higher minimum coverage requirement – of 95% to 100% of the qualifying road miles in each block – apply under the bidder-defined approach, which we do not adopt.<sup>215</sup> A number of commenters indicate support for a coverage requirement of 75%, although many of them do so in the context of the bidder-defined approach.<sup>216</sup>

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<sup>210</sup> *Id.* Mid-Rivers also indicates that they agree with RTG that bidders should be able to adjust bids “to areas that make the most sense to serve.” *Id.* at 6.

<sup>211</sup> The average size of the blocks in Alaska that were included in the *Auction 901 Updated Blocks Public Notice* is 42.4 square miles, and the average size per tract is 5,286 square miles. The average size of the blocks in Montana that were included is 2.2 square miles, and the average size per tract is 430 square miles. The average size of the blocks in the other 48 states is 1.1 square miles per block and 82 square miles per tract.

<sup>212</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17792, para. 365; see 47 C.F.R. § 54.1006(a) and (b).

<sup>213</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd at 17792-93 paras. 365, 367.

<sup>214</sup> *Auction 901 Comment Public Notice*, 27 FCC Rcd at 542 para. 45.

<sup>215</sup> *Id.* at 540 para. 36.

<sup>216</sup> ACS Comments at 4-5; RTG Comments at 5; Blooston Comments at 7 (for Tier III carriers); RTG Reply at 7-8 (for Tier III carriers); US Cellular Comments at 7-8; US Cellular Reply at 6-8; USA Coalition Reply at 6; AT&T Comments at 16-17. In addition, Blooston proposes, and RTG supports, different percentage coverage requirements for carriers of different sizes, effectively permitting smaller carriers to cover less of areas in which they receive support than the area that larger carriers would have to cover. Blooston Comments at 7; RTG Reply at 7-8. Such differential treatment would conflict with the goal of extending coverage to the greatest extent possible. Moreover, the Commission's rule establishes a uniform minimum coverage requirement without regard to the size of the carrier. 47 C.F.R. § 54.1006(a) and (b). In the *USF/ICC Transformation Order*, the Commission expressly (continued....)

### 3. Winner Selection Process

143. Under the auction format that we adopt, during the single bidding round, bidders will be able to submit bids that indicate a per-road mile support price at which they are willing to meet our requirements to cover the qualifying road miles in a given tract. The qualifying road miles in a tract are the road miles in the selected road categories in the eligible census blocks in the tract.<sup>217</sup>

144. After the single bidding round closes, in order to select winning bidders, the FCC Auction System will rank bids from lowest to highest per-road mile bid amount and assign support first to the bidder making the lowest per-road mile bid. For bidders claiming eligibility for a Tribal land bidding credit, the auction system will reduce the Tribal entity's bid amount by 25 percent for the purpose of comparing it to other bids, thus increasing the likelihood that Tribally-owned and controlled entities will receive funding.<sup>218</sup> For all selected bids, an amount equal to the per-mile bid times the number of qualifying road miles in the area will be deducted from the total available funds. The auction system will continue to assign support to the next lowest per-unit bids in turn, as long as support has not already been assigned for that geographic area, deducting assigned support funds from the remaining available funds, and will continue until the sum of support funds of the winning bids is such that no further winning bids can be supported given the funds available.<sup>219</sup> If there are any identical bids – in the same per-unit amounts to cover the same tract, submitted by different bidders – only one such bid, chosen randomly, will be considered in the ranking.<sup>220</sup> A bidder will be eligible to receive support for each of its winning bids equal to the per-unit rate of a winning bid multiplied by the number of road miles in the eligible census blocks covered by the bid, subject to meeting the obligations associated with receiving support.

145. This method of identifying winning bidders will likely result in monies remaining in the fund after identifying the last lowest per-unit bid that does not exceed the funds available. When the auction reaches this point, the FCC Auction System will continue to consider bids in order of per-unit bid amount while skipping bids that would require more support than is available. In the unlikely event that the winner selection procedure arrives at a situation where there are two or more bids for the same per-unit amount but for different areas and remaining funds are insufficient to satisfy all of the tied bids, the auction system will award support to that combination of tied bids that will most nearly exhaust the available funds.

146. Commenters generally do not address the winner determination process for the predefined approach specifically. AT&T agrees that the predefined approach is consistent with this (Continued from previous page) \_\_\_\_\_

delegated to the Bureaus the question of whether to require a coverage percentage higher than the minimum in the event that applicants would be permitted to bid on individual census blocks, as applicants then would be able to target areas where they could cover a higher percentage, without any consideration of the size of the applicants. *USF/ICC Transformation Order*, 26 FCC Rcd at 17792 para. 365. Both the rule and the delegation appear to presume that the same percentage of coverage would be required of all bidders. In light of the goal of extending coverage as much as possible and the presumption of uniform coverage requirements, we decline to adopt Blooston's proposal.

<sup>217</sup> As discussed elsewhere, qualifying road miles refers to road miles in the road categories we have selected: S1100, S1200, S1400, S1500, S1640, and S1740.

<sup>218</sup> See Section II.F. "Tribally-Owned or Controlled Providers – 25% Reverse Bidding Credit," above.

<sup>219</sup> When calculating how much of the budget remains, for each winning bid the auction system will multiply the per-unit rate bid by the total number of road miles in the uncovered blocks. This is because an awardee may receive support for up to 100 percent of the road miles in the blocks for which it receives support.

<sup>220</sup> The auction system will use a random number generator to assign a random number to each bid upon submission. The tied bid with the highest random number wins the tiebreaker and will be considered in the ranking.

simple means of selecting winning bids, but suggests (supported by Belloni et al.) a modification to only set aside support funds adequate to meet the minimum coverage requirement, rather than deducting support that would cover all the qualifying road miles in the assigned tract, when calculating the impact on the remaining support funds of an assigned bid. They argue that our proposal will result in some funds going unused, since many winning bidders may ultimately not cover more than the minimum required number of miles.<sup>221</sup> We recognize that our approach may result in some unused funds when support awardees do not fully build out, but we wish to encourage the extension of services as completely as possible within the tracts that are awarded support, and therefore we must reserve funds sufficient to fully cover the supported tracts. We anticipate that funds unused under Mobility Fund Phase I will be put to productive use under later stages of the Mobility Fund program or other USF reform efforts.<sup>222</sup>

#### **4. Limited Information Disclosure Procedures: Information Available to Bidders Before and During the Auction**

147. We will conduct Auction 901 using procedures for limited information disclosure, as we proposed, and as we have discretion to do under the rules adopted in the *USF/ICC Transformation Order*.<sup>223</sup> That is, for Auction 901, the Bureaus will withhold, until after the close of bidding and announcement of auction results, the public release of (1) information from applicants' short-form applications regarding their interests in eligible census tracts and/or blocks in particular states and/or Tribal lands and (2) information that may reveal the identities of bidders placing bids and taking other bidding-related actions. Because we will conduct Auction 901 using a single round of bidding, we do not anticipate a need to release bidding-related actions during the auction as we would in a multiple round auction. If such circumstances arise prior to the release of non-public information and auction results, however, we will not indicate the identity of any bidders taking such actions. After the close of bidding, information regarding applicants' interests in eligible geographic areas in particular state and/or Tribal lands, their bids, and any other bidding-related actions and information will be made publicly available.

#### **5. Auction Delay, Suspension, or Cancellation**

148. In the *Auction 901 Comment Public Notice*, the Bureaus proposed that, by public notice or by announcement during the auction, they may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding.<sup>224</sup> We received no comments on this issue.

149. Because this approach has proven effective in resolving exigent circumstances in previous auctions, the Bureaus adopt these proposals regarding auction delay, suspension, or cancellation. By public notice or by announcement during the auction, we may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an

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<sup>221</sup> AT&T Comments at 16; Belloni et al. Reply at 2.

<sup>222</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd at 17815 para. 462.

<sup>223</sup> *Auction 901 Comment Public Notice*, 27 FCC Rcd at 543 para. 51; *USF/ICC Transformation Order*, 26 FCC Rcd at 17807 para. 431, see 47 C.F.R. § 1.21003(b)(1). See also, e.g., "Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, Reserve Prices, Upfront Payments, and Other Procedures for Auctions 73 and 76," *Public Notice*, DA 07-4171, 22 FCC Rcd 18141, 18181-85 paras. 145-56 (2007); "Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 66," *Public Notice*, FCC 06-47, 21 FCC Rcd 4562, 4600-05 paras. 140-57 (2006).

<sup>224</sup> *Auction 901 Comment Public Notice*, 27 FCC Rcd at 537 para. 22.

auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the point at which the auction was suspended, or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. We emphasize that we will exercise this authority solely at our discretion.

## **B. Bidding Procedures**

### **1. Bidding**

150. All bidding will take place through the web-based FCC Auction System. To place bids a bidder will upload a text file that includes, for each tract in the bid file, the tract number and the bid for the tract, expressed in dollars per road mile. For areas in Alaska, bids will include block numbers instead of tract numbers. When a bidder uploads a bid file, the FCC Auction System will provide a verification that includes the tract and/or block numbers, the dollars per road mile bid for each tract and/or block, the number of road miles in each tract and/or block, the total bid amount for each tract and/or block, and the county and state for each tract and/or block. The bidder then submits the bids, or the bidder can cancel the bids if it wishes to make changes.

151. Bidders must submit their bids before the finish time of the bidding round, which will be announced in a public notice listing the qualified bidders, which will be released approximately 10 days before the start of the auction.

### **2. Reserve Prices**

152. Under the Commission's rules on competitive bidding for high-cost universal service support adopted in the *USF/ICC Transformation Order*, the Bureaus have discretion to establish maximum acceptable per-unit bid amounts and reserve amounts, separate and apart from any maximum opening bids.<sup>225</sup> As proposed, we choose not to establish any maximum acceptable per-unit bid amounts or reserve prices.<sup>226</sup> Although two commenters suggest that we may want to consider some sort of reserve price, we continue to believe that cross-area competition for support from a budget that is not likely to cover support for all of the areas receiving bids will constrain the bid amounts, and that a reserve price is not needed to guard against any unreasonably high winning bids.<sup>227</sup>

### **3. Bid Removal**

153. For Auction 901, before the end of the single round of bidding, a bidder will have the option of removing any bid it has placed. By removing a selected bid(s), a bidder may effectively "undo" any of its bids placed within the single round of bidding. Once the single round of bidding ends, a bidder may no longer remove any of its bids.

154. To remove bids a bidder will upload a text file that includes the tract or block number for each bid it wants to remove. When a bidder uploads such a file, the FCC Auction System will provide a verification that includes the tract and/or block numbers, and the county and state for each tract and/or block.

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<sup>225</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17806 para. 423-24; 47 C.F.R. § 1.21003(b)(4).

<sup>226</sup> *Auction 901 Comment Public Notice*, 27 FCC Rcd at 544 para. 57.

<sup>227</sup> Belloni et al. Comments at 2 (in the context of the bidder-defined approach, which we do not adopt); Verizon Comments at 4 (in case competition is less than expected).